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Dana G. Bradshaw

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TRANSCRIPT OF PROCEEDINGS

RECEIVED

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEB 16 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

IN THE MATTER OF:

MM DOCKET NO. 93-75

TRINITY BROADCASTING OF FLORIDA, INC.
and
GLENDALE BROADCASTING COMPANY

Miami, Florida

DATE OF HEARING: January 27, 1994

VOLUME: 35

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In the matter of:)

TRINITY BROADCASTING OF FLORIDA, INC.)
and)
GLENDALE BROADCASTING COMPANY)

Miami, Florida)
-----)

The above-entitled matter came on for hearing pursuant to
Notice before Judge Joseph Chachkin, Administrative Law Judge,
at 2000 L Street, N.W., Washington, D.C., 20554, in Courtroom
No. 3, on Thursday, January 27, 1994, 9:00 a.m.

APPEARANCES:

On behalf of Trinity Broadcasting of Florida, Inc.:

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On behalf of Glendale Broadcasting Company:

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1 APPEARANCES (Continued):

2 On behalf of Mass Media Bureau:

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I N D E X

<u>Witness</u>	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
George Gardner				
By Mr. Emmons	5293			
By Mr. Shook		5310		
By Mr. Schauble			5338	

E X H I B I T S

<u>Exhibit</u>	<u>Identified</u>	<u>Received</u>	<u>Rejected</u>
TBF Exhibit #269	5299	5300	
TBF Exhibit #270	5303		5310

Hearing Began: 9:00 a.m. Hearing Ended: 10:49 a.m.

P R O C E E D I N G S

JUDGE CHACHKIN: On the record. Mr. Emmons?

MR. EMMONS: Thank you, Your Honor.

Whereupon,

GEORGE GARDNER

having previously been duly sworn, was called as a witness herein and was examined and testified as follows:

D I R E C T E X A M I N A T I O N

BY MR. EMMONS:

Q Mr. Gardner, when we left off yesterday, we were talking about the July 1992 extension application and I just have a couple of questions to finish up on that point.

I am correct, am I not, that in connection with your review and signing of those applications you did not speak to David Gardner?

A I don't recall speaking to David Gardner, no.

Q And you did not speak to Mr. Sandifer because he was on vacation?

A That's correct.

Q And you did not speak to Mr. Etsell, is that correct?

A Mr. Etsell, to the best of my knowledge, had not assisted in the preparation of that. I, I think David Gardner may have consulted with him, but I did not feel that Mr. Etsell had assisted in the preparation.

1 Q So, so you did not talk to Mr. Etsell?

2 A No.

3 Q And you did not talk to coun-- FCC counsel?

4 A No.

5 Q Now, Mr. Gardner, would you turn to TBF Exhibit 264,
6 which is before you there in Volume 3, the last of the exhi-
7 bits in that volume.

8 A Yes, I have it.

9 Q This is the agreement signed between Raystay and
10 Greyhound Financial Corporation on July 31, 1992, portions of
11 the agreement, as you can see, as it's been redacted. I
12 assume that you are generally familiar with this document from
13 your preparation for the case?

14 A I've reviewed the exhibits, yes.

15 Q Okay. My question is, when this agreement was
16 signed at the end of July 1992, I assume you were aware of the
17 restrictions imposed on Raystay that are stated in the follow-
18 ing sections, and I'll ask you to look at them, review them.
19 The first is Section 2.7 entitled "Use of Proceeds," and
20 that's on page 12 of the exhibit.

21 A Yes. I've read it.

22 Q My question is you were aware of when this agreement
23 was signed or, or of, of the restrictions stated in that
24 section?

25 A I was aware that the proceeds of the loan from

1 Greyhound could not be used to fund the construction of the
2 construction permit.

3 Q Of, of Raystay's low-power construction?

4 A Of the low-power construction permit --

5 Q Okay.

6 A -- yes.

7 Q Okay. And were, were you also aware that -- and you
8 have turned to Section -- page 17 and 18, I think is the
9 section which you have been referring to just now. It's
10 entitled "8.13 Capital Expenditures." You were aware of that
11 restriction. I think you just said that you, you were aware
12 that funds could not be used to fund construction for the low-
13 power permits.

14 MR. SCHAUBLE: Objection, Your Honor. I, I think
15 the witness spoke specifically of loan proceeds.

16 JUDGE CHACHKIN: Well, that's what the witness said.
17 That's what the --

18 MR. SCHAUBLE: Yeah.

19 JUDGE CHACHKIN: -- counsel asked -- that's what the
20 witness said, he couldn't use the loan, loan proceeds to fund
21 the financing for building the CP, the low-power CP.

22 MR. EMMONS: Okay. But that, that relates to the
23 loan proceeds, Your Honor.

24 BY MR. EMMONS:

25 Q Then Mr. Gardner, do you have pages 17 and 18,

1 entitled, "8.13 Capital Expenditures"?

2 A Yes. I have 17 and 18.

3 Q And you understood that that restricted Raystay from
4 spending any funds for capital expenditures for the low-power
5 construction permit?

6 A They weren't permitted to be used for TV40 capital
7 expenditures.

8 Q Well, were they permitted to be used for capital
9 expenditures to build Lebanon and Lancaster?

10 MR. SCHAUBLE: Again, are you wi-- asking the
11 witness's understanding at or around the time the agreement
12 was signed?

13 MR. EMMONS: That's, that's what I'm asking.

14 MR. SCHAUBLE: Okay. Thank you.

15 MR. GARDNER: The restrictions on capital expendi-
16 tures was mainly on TV40. The loan proceeds were for defined
17 purposes in the system.

18 BY MR. EMMONS:

19 Q Well, let, let me ask you a more general question
20 then. Was it your understanding that, that, when this agree-
21 ment with Greyhound was signed, Raystay could not spend this
22 money, whether from loan proceeds or from its working capital
23 source or from cash, just couldn't spend this money to build
24 the Lebanon or Lancaster permits?

25 A My conversations with Lee Sandifer made it clear to

1 me that we could fund the construction permits. There was no
2 way that we could use the money that we received from the loan
3 with Greyhound, but Greyhound was never asked to fund those
4 construction permits.

5 Q Well, if you couldn't, you couldn't use the
6 Greyhound money, could -- what money could you use? Was there
7 other money you could use?

8 A Well, it was always my understanding that Raystay
9 was permitted to build the construction permits but not per-
10 mitted to use the loan proceeds to do so.

11 Q Well, if it didn't use the loan proceeds, what money
12 could it use?

13 A Well, Raystay could have used money that I would
14 have advanced to it. I think we could have built the system
15 -- the construction permits through a joint venture. There
16 was a mechanism to request any changes that we wanted in the
17 loan agreement. The, the UDUM (phonetic sp.) senior lender
18 was available. This was -- this loan did not tell us that we
19 could not construct the low-power television stations.

20 Q You mentioned that you, you, you could have lent
21 funds to, to Raystay to, to construct the permit?

22 A Yes.

23 Q Did you ever form an intention to lend your personal
24 funds to do that?

25 A I never ruled it out.

1 Q No, but my question is did you ever form an inten-
2 tion to do it?

3 A I had the funds available. And if we could have put
4 a viable business plan together and could not have obtained
5 funding anyplace else, yes, I would certainly have considered
6 it. I did not set aside funds for that purposes, but there
7 was no need to. I had them available. I could have set them
8 aside any time I wanted to.

9 Q Didn't you tell the FCC in the declaration you filed
10 in that proceeding last June that any funds to build the
11 Lebanon and Lancaster stations would have been Raystay's funds
12 and not your personal funds?

13 MR. SCHAUBLE: Objection, Your Honor.

14 JUDGE CHACHKIN: Overruled.

15 MR. GARDNER: I don't recall taking myself out of
16 the picture as far as funding it, no. I don't recall, no.

17 MR. EMMONS: Well, Your Honor, I'm going to ask that
18 this document that I've just handed to the witness and to
19 other counsel and to Your Honor, which is a four-page document
20 entitled "Declaration" signed by George Gardner on June 2,
21 1993, be identified as a TBF Exhibit. I don't remember which
22 number.

23 MR. SCHONMAN: It's 268.

24 JUDGE CHACHKIN: What is it?

25 MR. EMMONS: I believe it's 269.

1 JUDGE CHACHKIN: 269? Yes.

2 MR. SCHONMAN: Yes, that's right.

3 JUDGE CHACHKIN: All right. The document described
4 be marked for identification as TBF Exhibit 269.

5 (Whereupon, the document referred to
6 as TBF Exhibit No. 269 was marked for
7 identification.)

8 BY MR. EMMONS:

9 Q Mr. Gardner, if you turn to page 3, bottom of page
10 3, top of page 4 -- let, let me ask you first do you recognize
11 this document as a Declaration that you signed on June 2,
12 1993?

13 A Yes, I do.

14 Q And that's your signature that appears on page 4?

15 A Yes, it is.

16 Q All right. Now, if you turn to the bottom of page 3
17 and there's a short paragraph that starts there and carries
18 over to the top of page 4, which says, "Raystay had sufficient
19 funds available to construct and to operate all of the
20 Lancaster and Lebanon LPTV stations. The funds that would
21 have been used to construct these stations would have been
22 Raystay's funds, not my personal funds." Do you remember
23 giving that statement to the FCC in June 1993?

24 MR. SCHAUBLE: Objection. Objection, Your Honor.

25 This -- I don't --

1 JUDGE CHACHKIN: What's the specific objection?

2 MR. SCHAUBLE: Well, the witness has answered the
3 question.

4 JUDGE CHACHKIN: It's overruled.

5 MR. EMMONS: Your Honor, I offer TBF Exhibit 269
6 into evidence.

7 MR. SCHAUBLE: I object on the basis of relevance,
8 Your Honor. I don't see anything in here which is inconsis-
9 tent with the witness's earlier testimony.

10 MR. EMMONS: Your Honor, the witness testified a
11 moment ago before this document was presented to him that he
12 gave consideration to personally funding the construction of
13 the low-power television stations in Lebanon and Lancaster and
14 that that was always an option, and this declaration, I think,
15 is contradictory to that.

16 JUDGE CHACHKIN: You, you just want -- you're just
17 offering that one paragraph?

18 MR. EMMONS: Yes, that's all.

19 JUDGE CHACHKIN: All right. For impeachment pur-
20 poses, the paragraph will be received into evidence as TBF
21 Exhibit 269.

22 (Whereupon, portions of the document
23 marked for identification as TBF
24 Exhibit No. 269 were received into
25 evidence.)

1 JUDGE CHACHKIN: You'll have an opportunity, Mr.
2 Schauble, to have him explain his answer.

3 MR. SCHAUBLE: Okay.

4 BY MR. EMMONS:

5 Q Now, Mr. Gardner, you testified yesterday, I be-
6 lieve, that with respect to the sale to Mr. Grolman of the Red
7 Lion/York construction permit that you determined that there
8 was no reason not to sell that permit by itself and not as a
9 package with TV40 or the other permits because, if I under-
10 stand you correctly, that TV-- you determined that TV40 had a
11 coverage of, of the York market, and so you, you could cover
12 -- Raystay could cover TV40 -- could cover York with TV40?
13 Have I got that right or --

14 A I'm not sure I understand your question --

15 Q Well --

16 A -- Mr. Emmons.

17 Q You recall testifying yesterday as to the reasons
18 Raystay was willing to sell the Red Lion permit and just the
19 Red Lion permit to Mr. Goldman? Do you remember that
20 testimony?

21 A Yes.

22 Q And am I correct that you testified that the reason,
23 or at least one of the reasons, Raystay was willing to sell
24 that permit by itself is that you determined that TV40, which
25 was already on the air, of course, covers much of what would

1 have been covered by the, by the York/Red Lion station?

2 A That's correct.

3 Q Now, your coverage -- by "your" I mean TV -- the
4 TV40 coverage, you don't get good coverage in the city of York
5 with TV40, do you?

6 A TV40 is in York County. The transmitter site is in
7 York County. The city of license is Dillsburg, which is in
8 York County.

9 Q But --

10 A And it covers the area where the bulk of the viewers
11 in the City of York are. The City of York has a lot of hills
12 and there are some areas that it doesn't cover because of
13 that, but it does cover the bulk of the viewers in the City of
14 York.

15 MR. EMMONS: Your Honor, I'm going to ask that there
16 be marked for identification as TBF Exhibit 270 an exhibit of
17 four pages in length, and I'll explain what the pages are.

18 Pages 1 and 2, Your Honor, are from the FCC's files,
19 a copy of the license for TV40. Pages 3 and 4 of the exhibit
20 are two of the pages from the -- Raystay's application for
21 construction permit for TV40 which had been filed in 1984, and
22 these are engineering pages. Page 4 of the exhibit contains
23 the predicted coverage contour map for TV 40.

24 JUDGE CHACHKIN: The document described is marked
25 for identification as TBF Exhibit 270.

1 (Whereupon, the document referred to
2 as TBF Exhibit No. 270 was marked for
3 identification.)

4 MR. EMMONS: Now, Mr. Gardner, will you accept my
5 representation to the role -- my understanding that, that
6 these documents are the documents as I described and they are
7 what I described?

8 MR. SCHAUBLE: Your, Your Honor, I, I do have an
9 in-- I, I do have a question in that regard on -- with respect
10 to the coverage map on page 4. And that -- I, I notice that
11 the contour described in there is the 74-dBu contour and I,
12 I --

13 MR. EMMONS: Well --

14 MR. SCHAUBLE: -- I'm uncertain in my mind as to
15 whether that's actually the pertinent service area contour or
16 whether that's some -- or whether it's another lower figure.

17 MR. EMMONS: Well, this is the only contour map in
18 the application. I'm, I'm simply presenting what Raystay
19 presented to the Commission.

20 MR. SCHAUBLE: Okay. Is, is this a contour map from
21 the original CP application?

22 MR. EMMONS: Yes. Marked -- filed in 1984.

23 MR. SCHAUBLE: Then I have an objection, Your Honor,
24 on the basis that there was, there was a modification of the
25 construction permit.

1 MR. EMMONS: Well, maybe you could ask the witness
2 about that because if there was I, I don't have it and, and
3 the modification, if there was one, may or may not have
4 evolved from this contour.

5 JUDGE CHACHKIN: Ask the witness whether this, this
6 represents the contour, unless you have some other record.
7 You'll have to get it in through somebody as to whether this
8 constitutes the contour of the station when it was built or
9 whether there was a modification.

10 BY MR. EMMONS:

11 Q Well, Mr., Mr. Gardner, do you recognize the first
12 two pages of the Exhibit 270 for identification as the license
13 for, for the Channel 40, TV40?

14 A Yes, I have.

15 Q All right. Now, does the contour repre-- that's
16 depicted on page 4 of this exhibit represent the contour of
17 TV40 as presently operated?

18 A The present operation of TV40 utilizes a
19 approximately two-and-a-half or three degree beam product,
20 it's not exactly what it is, which was put into the antenna
21 when it was constructed. And this contour may be similar
22 because the directional characteristics of the antenna were
23 not changed with the beam tilt, but the level of signal in
24 Harrisburg changed because of that beam tilt, and this ex-
25 cludes the entire city of Harrisburg.

1 Q All right.

2 A My feeling is that -- if you notice, West York is
3 the only part of York that's shown here. It's about the same
4 as Harrisburg and that's why the discrepancy from this and
5 what my testimony -- that this signal definitely does get into
6 York because I've measured it myself.

7 Q Well, are you aware of any contour map that reflects
8 the 74 dBu contour with inclusion of the beam tilt that you
9 describe?

10 A I'd have to review the file. I haven't looked at it
11 for a number of years and I don't know any more about it than
12 what you see here.

13 Q Your testimony is that the 74 dBu contour as de-
14 picted here would, if, if the beam tilt were taken into ac-
15 count, reflect its coverage further toward York than is shown
16 on, on this page 4?

17 A When we worked with the consulting engineer on beam
18 tilt, he told us that the directional characteristics of the
19 antenna would not change and they weren't permitted to change
20 because we had to protect other channel 40 licenses. But the
21 minor modification, I seem to recall that it was called, would
22 enhance the signal in the service area up to the horizon, the
23 line-of-sight horizon, and I believe the line-of-sight horizon
24 from the Dillsburg transmitting facility was in the order of
25 40 to 45 miles.

1 Q And, and that improvement would be done in all
2 directions?

3 A In -- he said that it would -- it was designed so
4 that it would still give us the protection that we had to
5 maintain to the other Channel 40 stations but would enhance
6 the signal in the other areas, generally the same as what the
7 license was.

8 Q And you say you took measurements of the, of the
9 enhanced signal?

10 A I --

11 MR. SCHAUBLE: I'm objecting on the basis of rele-
12 vance here.

13 JUDGE CHACHKIN: Overruled.

14 MR. GARDNER: I measured the signal in downtown
15 Harrisburg on the east side of Harrisburg in the area of
16 Interstate 83, which is shown by this heavy line, black line,
17 that goes a little bit southeast and northwest along the edge
18 of this. And I measured in the area of York several places
19 and discovered that behind some of the hills there was no
20 signal, on top of the hills in York there was good signal, and
21 in most of the downtown area there was signal but it was quite
22 varied, which occurs when you get in downtown area. But there
23 was signal from TV40 in York and we received correspondence
24 from viewers from the City of York.

25 BY MR. EMMONS:

1 Q Would you agree that, that coverage of the City of
2 York would be provided better, that is, in terms of signal
3 quality, better signal quality in the City of York from the
4 York/Red Lion site than from the Dillsburg site?

5 MR. SCHAUBLE: Objection. Relevance, Your Honor.

6 JUDGE CHACHKIN: Where are we going?

7 MR. EMMONS: Your Honor, I -- this goes to the
8 credibility of the witness's testimony about the reasons he
9 was willing to sell the Red Lion permit by itself.

10 JUDGE CHACHKIN: When you say better, what does that
11 mean?

12 MR. EMMONS: Well, a stronger signal that would,
13 that would be a better viewing quality.

14 JUDGE CHACHKIN: Well, that's, that's a subjective
15 thing, isn't it?

16 MR. EMMONS: Well, it may be, but it goes to the
17 witness's state of mind.

18 MR. SCHAUBLE: Your Honor, I don't think there's any
19 foundation here.

20 MR. EMMONS: Well, it's the witness's state of mind,
21 Your Honor, whether he believed that there would be better
22 signal quality in York from the York site rather than from the
23 Dillsburg site.

24 JUDGE CHACHKIN: Well, his belief is irrelevant if,
25 if -- unless what the facts are. I don't know whether it

1 would be --

2 MR. EMMONS: It, it --

3 JUDGE CHACHKIN: -- a better signal --

4 MR. EMMONS: -- relevant, Your Honor, because his
5 belief is, is the criteria on which he would have made the
6 decision to sell Red Lion. If he believed that, that the Red
7 Lion -- the coverage from Red Lion, the Red Lion site, would
8 give better quality television signal to viewers in the York
9 market, then I think that undermines the credibility of his
10 testimony yesterday, Your Honor.

11 MR. SCHAUBLE: Your Honor, I think that's pure
12 speculation we're dealing with here. The, the better -- you
13 know, if you had a 90 dBu that --

14 JUDGE CHACHKIN: I'm going to sustain the objection.
15 If, if you had evidence showing that he couldn't get into York
16 with his existing TV40 and that the only way he can get into
17 York would be with the -- one of the CPs, then I could under-
18 stand where --

19 MR. EMMONS: But, Your Honor, he just testified
20 that --

21 JUDGE CHACHKIN: But he's made a business judgment
22 that he, he has a satisfactory signal, he has the viewers he
23 wants, downtown. He doesn't have all the viewers, but he --
24 but -- because of the hills and whatever surrounding problems
25 there are, but that he was satisfied with the signal coverage

1 that he -- was no need -- as a businessman that there was no
2 need for him to keep the York CP. Now, the only way you can
3 impeach that, by showing that he couldn't provide the signal
4 to York, but you have -- don't have that evidence. And bet-
5 ter, I don't know what better means. If he does provide
6 coverage and if he does have viewers there, and as a business-
7 man he made the judgment, I, I don't see where you can impeach
8 him.

9 MR. EMMONS: Your Honor, I'd offer 2-- Exhibit 270
10 into evidence.

11 MR. SCHAUBLE: Your Honor --

12 JUDGE CHACHKIN: It's not even demonstrated that
13 this is an accurate rendition of the signal coverage because
14 of the modification, so I don't understand the basis for it.

15 MR. EMMONS: Well, I'm -- I -- I'm going to try to
16 check whatever files may exist on the modification. I don't
17 have that at the moment, Your Honor.

18 JUDGE CHACHKIN: And the fact that -- and the fact
19 you have a coverage map, he's also indicated that he's taken
20 measurements, which would be a more accurate indication than a
21 mere use of coverage, which is not claimed by the Commission
22 to be accurate necessarily, but it's something the Commission
23 uses. I don't think there's any basis. If you took measure-
24 ments and demonstrated that you couldn't get in -- that he
25 couldn't get his signal into York, then you would have a basis

1 for it, but I'm not going to receive -- TBF Exhibit 270 is
2 rejected as not relevant and also not competent.

3 (Whereupon, the document marked for
4 identification as TBF Exhibit No. 270
5 was rejected.)

6 MR. EMMONS: That's all I have, Your Honor.

7 JUDGE CHACHKIN: All right. Mr. Shook?

8 MR. SHOOK: Yes, Your Honor. Mr. Gardner, I have
9 very few questions for you, so hopefully you can be on your
10 way later this morning.

11 MR. COHEN: Before the weather changes.

12 MR. GARDNER: Thank you.

13 MR. SHOOK: I can't control that.

14 MR. COHEN: Your Honor, I -- could we go off the
15 record for a second?

16 JUDGE CHACHKIN: Yes.

17 (Off the record.)

18 (On the record.)

19 CROSS-EXAMINATION

20 BY MR. SHOOK:

21 Q Mr. Gardner, with respect to the budgetary process,
22 I want to focus your attention on the fiscal year budget for
23 Raystay for the period beginning November 1, 1990, and ending
24 October 31, 1991. Now, you did understand that by the time
25 the November 1, 1990, budget was going to be put into place

1 that Raystay did have by that time the five low-power con-
2 struction permits for Lancaster, Lebanon, and Red Lion,
3 correct?

4 A Yeah.

5 Q Do you recall any consideration given to adding to
6 the 1990-1991 budget funds for the construction of those five
7 permits?

8 A No. The budget was never designed for projects that
9 we didn't have the ability to do. We're a reasonably small
10 company. And if we have a situation come up during the budget
11 year, and we review the budget usually about six months into
12 it, and if we need to shift funds among accounts, even capital
13 accounts, we do that. And if the need would have arisen so
14 that we needed to shift funds that weren't budgeted, then we
15 would have done it that way.

16 Q My question to you is not, you know, what you could
17 have done but rather what you did with respect to the
18 November 1, 1990, budget, and I just want to make clear, if
19 this is the case, that for that budget the budget beginning
20 November 1, 1990, there was no allocation of funds for the
21 construction of the five low-power construction permits for
22 Lebanon, Lancaster, and Red Lion.

23 A That's correct.

24 Q Do you recall there being any deliberative process
25 that preceded the preparation of the budget whereby it was

1 specifically considered whether or not to allocate funds for
2 the five construction permits for Lebanon, Lancaster, and Red
3 Lion?

4 A Beginning about three months before our fiscal year
5 begins, our budgeting process, first of all, does lo-- goes
6 into the operating budget, looks at historical budgeting and
7 current trending of the operating budget, and we determine how
8 much money we need for each of the different accounts for that
9 operating budget. And we work with our system managers, who
10 we classify as a division, to determine what each one of those
11 operating requirements are. As soon as we've done that, we
12 can take a look at our projected revenue figure and determine
13 what surplus there might be beyond our operating requirements,
14 and we classify that as our capital budget availability. We
15 then take the capital projects that are requested by each one
16 of the managers that's responsible for an operating division
17 and allocate the money among them. If it completely covers
18 them and we have extra, so be it. If it doesn't, then we
19 apportion it out by consulting with them. And the operating
20 budget and the capital budget, if there was -- would have been
21 a viable business plan for the LPTV CPs, it would have been
22 considered at that time. The fact that there was no viable
23 business plan would have caused it to be set aside and there
24 would have been no consideration given to allocating money to
25 that project.

1 Q Am I to understand, then, that there was specific
2 consideration given to the allocation of funds for the con-
3 struction of the permits or there was not?

4 A There would have been, because we have many capital
5 projects in the cable industry that have been requested but
6 they're on hold for one reason or, or another. Everything has
7 been done up to the place where we should allocate funds for
8 the construction, but we can't do it. So, this would have
9 fallen in that category as a project that is waiting for
10 something and can't have capital allocated in the budget for
11 it.

12 Q When the permits were granted in July of 1990, I
13 take it that it was only a very short time thereafter that you
14 became aware of the grant of those permits?

15 A Yes.

16 Q Were -- was the responsibility for the construction
17 of the facilities granted by the permits specifically delegat-
18 ed to anyone?

19 A The, the responsibility for putting the business
20 plan together was given to Harold Etsell, and I don't recall
21 the exact date, but it was in the fall, I believe, of 1990,
22 and he came up with his proposed business plan early into
23 1991. The budget for 1991, fiscal budget, which would have
24 begun November 1, 1990, probably didn't have any consideration
25 given to the LPTV construction permits because the business